## IN THE DISTRICT COURT OF THE UNITED STATES FOR THE WESTERN DISTRICT OF NORTH CAROLINA BRYSON CITY DIVISION 2:14-cv-007

DIAMOND FALLS ESTATES, LLC, SHIRLEY M. BUAFO, and CHARLES K. BUAFO,	) ) )
Plaintiffs,	)
vs.	) ) ) ORDER
NANTAHALA BANK & TRUST	) ORBER
COMPANY, STEVE E. GRAVETT,	j ,
<b>EXCELL PARTNERS, LLC, and</b>	)
JOHN/JANE DOES,	)
Defendants.	)
	)

**THIS MATTER** is before the Court *sua sponte* to ascertain subject matter jurisdiction. The Defendants Steve E. Gravett and Excell Partners, LLC removed this action from state court based upon diversity jurisdiction (#1). In the Complaint, Plaintiffs allege that Diamond Falls Estates, LLC is a corporation organized and existing under the laws of the state of North Carolina.

Courts have an affirmative duty to question subject matter jurisdiction even when the parties have not done so. <u>Interstate Petroleum Corp. v. Morgan</u>, 249 F.3d 215 (4<sup>th</sup> Cir. 2001); <u>Plyer v. Moore</u>, 129 F.3d 728, 732 n.6 (4th Cir. 1997),

certiorari denied 524 U.S. 945, 118 S.Ct. 2359, 141 L.Ed.2d 727 (1998); 28 U.S.C. §1447(c)("If at any time before final judgment it appears that the district court lacks subject matter jurisdiction, the case shall be remanded."). A limited liability company is a citizen of all states in which its constituent members are citizens. Carden v. Arkoma Associates, 494 U.S. 185, 110 S.Ct. 1015, 108 L.Ed.2d 157 (1990). The Defendant, Excell Partners, LLC, has not disclosed in their Notice of Removal the constituent members or partners of Excell Partners, LLC and therefore will be required to do so.

## **ORDER**

IT IS, THEREFORE, ORDERED that on or before May 16, 2014, the Defendant Excell Partners, LLC shall file a response disclosing the names and citizenships, if any, of all the constituent members or partners of Excell Partners, LLC and for any such constituent members or partners that are limited liability companies or partnerships, to identify the citizenships of the respective constituent members or partners until all such constituents are fully identified.

Signed: April 23, 2014

Dennis L. Howell

United States Magistrate Judge